

2010 SEP -2 PM 4:25

AUG 31 2010

PTO/SB/65 (03-09)

Approved for use through 03/31/2012. OMB 0651-0016

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))**

Docket Number (Optional)

20100900241

SEP 10 2010

OFFICE OF PETITIONS

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450
Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent Number: 6,302,845Application Number: 09/272,764Issue Date: 10-16-2001Filing Date: 03-19-1999

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable:

The above-identified patent:

- ☐ is a reissue of original Patent No. _____ original issue date _____
original application number _____
original filing date _____
- ☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application
_____ filed on _____

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is

(1) being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 OR

(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

March 9, 2010

Date

Beverly Hopkins
Signature

Beverly Hopkins

Typed or printed name of person signing Certificate

[Page 1 of 4]

This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

AUG 31 2010

006/012

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1. SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3 ½ yr fee	(1551)	<input checked="" type="checkbox"/> \$ 490.00	3 ½ yr fee	(2551)
<input type="checkbox"/> \$ _____	7 ½ yr fee	(1552)	<input checked="" type="checkbox"/> \$ 1,240.00	7 ½ yr fee	(2552)
<input type="checkbox"/> \$ _____	11 ½ yr fee	(1553)	<input type="checkbox"/> \$ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ 1,730.00

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(1) of \$ 700.00 (Fee Code 1557) must be paid as a condition of accepting unavoidably delayed payment of the maintenance fee.

SURCHARGE FEE BEING SUBMITTED \$ 700.00

5. MANNER OF PAYMENT

- ☐ Enclosed is a check for the sum of \$ _____
- ☐ Please charge Deposit Account No. _____ the sum of \$ _____
- ☒ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

- ☒ The Director is hereby authorized to charge any maintenance fee, surcharge or petition fee deficiency to Deposit Account No. 14-0629

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7. OVERPAYMENT

As to any overpayment made, please

☒ Credit to Deposit Account No. 14-0629

OR

☐ Send refund check

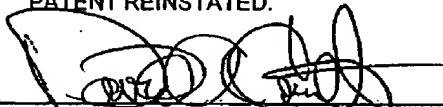
WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO 2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. SHOWING

The enclosed statement will show that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The statement must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which the patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

9. PETITIONER(S) REQUESTS THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.



Signature(s) of Petitioner(s)

David A. Cornett

Typed or printed name(s)

999 Peachtree Street, Suite 1000

Address

Atlanta, Georgia 30309

Address

March 9, 2010

Date

48,417

Registration Number, if applicable

678-420-9300

Telephone Number

ENCLOSURES:

- ☒ Maintenance Fee Payment
☒ Statement why maintenance fee was not paid timely
☒ Surcharge under 37 CFR 1.20(i)(1) (fee for filing the maintenance fee petition)
☒ Other: Return Postcard

AUG 31 2010

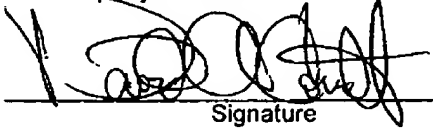
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37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."


Signature

David A. Cornett

Type or printed name

March 9, 2010

Date

48,417

Registration Number, if applicable

STATEMENT

(In the space below, please provide the showing of unavoidable delay recited in paragraph 8 above.)

See Attached Affidavit of Steven E. McKenzie.

(Please attach additional sheets if additional space is needed)

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AUG 31 2010

Attorney Docket No.: 20208.0002U1
Patent No.: 6,302,845IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re)	
)	
WILLIAM TAO SHI et al.)	Art Unit: 3737
)	
Application No. 09/272,764)	Examiner: Jaworski, Francis J.
)	
Filing Date: March 19, 1999)	Confirmation No. 6065
)	
For: METHOD AND SYSTEM FOR)	
PRESSURE ESTIMATION USING)	
SUBHARMONIC SIGNALS FROM)	
MICROBUBBLE-BASED)	
ULTRASOUND CONTRAST AGENTS)	

RECEIVED
SEP 10 2010
OFFICE OF PETITIONS

AFFIDAVIT OF STEVEN E. MCKENZIE

I, Steven E. McKenzie, Vice President for Research, Thomas Jefferson University, declare as follows:

1. Thomas Jefferson University is the owner of the entire right, title and interest in U.S. Patent No. 6,302,845 (the '845 Patent) as evidenced by the Assignment recorded with the United States Patent and Trademark Office ("USPTO") at Rec'd No. 012010 and Frame No. 0009 on July 17, 2001.
2. The '845 Patent issued on October 16, 2001.
3. The '845 Patent expired on November 16, 2005 due to nonpayment of maintenance fees under 37 CFR 1.362.
4. Thomas Jefferson University hereby seeks to revive the '845 Patent.
5. The entire time of delay of paying the required maintenance fees was unavoidable.
6. Thomas Jefferson University hereby petitions the USPTO to accept the unavoidable delayed payment of maintenance fees in the expired '845 Patent under 37 CFR 1.378(b).
7. Thomas Jefferson University submits herewith all required maintenance fees and the surcharge as required under 37 CFR 1.378(b).

Atlanta #958341 v3

BEST AVAILABLE COPY

Attorney Docket No.: 20208.0002U1
Patent No.: 6,302,845

8. I make the following statements as a showing that that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent.

- a. The patent application (Application Number 09/272,764) which matured into the '845 Patent was filed on March 19, 1999, and claimed priority to Provisional Patent Application No. 60/078,823, filed March 20, 1998.
- b. The attorney of record for the '764 application was Clifford Kent Weber, USPTO Registration No. 42,215.
- c. Mr. Weber was an employee of Thomas Jefferson University in its IP Counsel Group of the Office of University Counsel.
- d. Mr. Weber was solely responsible for prosecution of the '764 application before the USPTO (i.e., Thomas Jefferson University did not use outside counsel for the prosecution of the '764 application).
- e. The '764 application issued as U.S. Patent No. 6,302,845 on October 16, 2001.
- f. In accordance with Thomas Jefferson University policy, one of Mr. Weber's duties as an employee of Thomas Jefferson University in its IP Counsel group was responsibility for payment of maintenance fees for the '845 Patent.
- g. Mr. Weber's employment was terminated by Thomas Jefferson University on July 1, 2003, and he left the University immediately and abruptly thereafter. Mr. Weber did not transition his working matters to anyone else at Thomas Jefferson University.
- h. Thomas Jefferson University's IP Counsel Group dissolved after Mr. Weber's dismissal.
- i. There are no records indicating that Mr. Weber transferred responsibility for payment of maintenance fees for the '845 Patent to outside counsel.
- j. There are no records indicating the Mr. Weber contracted with a maintenance fee servicer to pay the maintenance fees for the '845 Patent.
- k. Thomas Jefferson University's lead counsel's employment was terminated on May 21, 2004.

Attorney Docket No.: 20208.0002U1
Patent No.: 6,302,845

- l. Records relating to the '746 application and the '845 Patent were lost subsequent to the dismissal of Mr. Weber and of the lead counsel. This included records related to the maintenance fees of the '845 Patent.
- m. The first maintenance fee for the '845 Patent came due on April 16, 2005.
- ii. Payment of the first maintenance fee has been unavoidably delayed as Thomas Jefferson University's Office of Technology Transfer and Business Development ("OTT"), the office that took over the coordination of patent prosecution functions on July 1, 2003 after Mr. Weber's sudden and abrupt dismissal, was not aware of the need to pay the first maintenance fee. Since July 1, 2003, OTT has engaged outside counsel to conduct all patent prosecution related matters and it was OTT's belief that responsibility for payment of maintenance fees for the '845 Patent had been transferred to outside counsel.
- o. OTT was made aware of the expiration of the '845 Patent when the OTT was forwarded a copy of Notice of Expiration of the '845 Patent received from the USPTO on December 22, 2005 by Thomas Jefferson University's Office of University Counsel. Because there was no case file for the '845 Patent, the receipt of the Notice was docketed by OTT's receptionist in OTT's database. However, the receptionist resigned from employment with the OTT and the Notice was subsequently misplaced.
- p. OTT has had Thomas Jefferson University personnel investigate the circumstances of the expiration. It was not OTT's intention to abandon the '845 Patent since OTT has a standard operating procedure to handle cases that Thomas Jefferson University decides to abandon and OTT has no records of its plan to abandon the '845 Patent. OTT intended to pursue revival of the '845 Patent upon discovery that it had expired and was under the impression that the receptionist had transferred the case for the '845 Patent to an outside counsel to revive the '845 Patent.
- q. OTT did not realize until June 1, 2009 that revival of the '845 Patent was not pursued completely and the case for the '845 Patent was not transferred to an outside counsel. Since then, Thomas Jefferson University has contracted with outside counsel to prepare and file this Petition with the USPTO. Thomas Jefferson University has transferred responsibility for future payment of the '845 Patent maintenance fees to the outside counsel.
- r. The '845 Patent was the only incidence that a case previously handled by Mr. Weber was not transferred to an outside counsel since OTT took over patent prosecution functions after July 1, 2003.

Attorn. Docket No.: 20208.0002U1
Patent No.: 6,302,845

- s. Thomas Jefferson University submits herewith the first maintenance fee, the second maintenance fee (which became due on April 16, 2009), and the surcharge for delayed payment of the first maintenance fee.
- t. Thomas Jefferson University respectfully and earnestly requests revival of the '845 Patent as the delay in payment of the first maintenance fee was unavoidable.
- u. Thomas Jefferson University intends to commercialize the intellectual property covered by the '845 Patent to benefit the general public.
9. Thomas Jefferson University further declares that all statements made herein of its own knowledge are true and that all statements made upon information and belief are believed to be true.

Steven E. McKenzie MD, PhD
Steven E. McKenzie MD, PhD.

March 5, 2010
DATE

State of Pennsylvania

County of Philadelphia

On this 5th day of March, 2010, before me, a Notary Public, came Steven E. McKenzie, to me known and known to be the individual described in and who executed the foregoing affidavit, and he/she duly acknowledged the same to be his/her free act and deed.

PM Berg
Notary Public

My Commission Expires: 1/8/12

